

**STAYTON CITY COUNCIL  
MEETING MINUTES  
June 20, 2011**

**CALL TO ORDER**

**7:00 p.m.**

**Mayor Vigil**

**FLAG SALUTE**

**ROLL CALL**

Mayor Scott Vigil	Councilor Jennifer Niegel
Councilor Larry Emery	Councilor Henry Porter
Councilor James Loftus	Councilor Brian Quigley

**STAFF**

Don Eubank, City Administrator  
Christine Shaffer, Finance Director  
Rich Sebens, Chief of Police  
Dan Fleishman, Director of Planning and Development  
Louise Meyers, Library Director, excused  
David Kinney, Public Works Director, excused  
Alissa Angelo, Public Works Administrative Assistant

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

- a. **Wendy Stone, 525 N. Myrtle Street:** Ms. Stone spoke in opposition of Ordinance No. 936. She is retired from the State of Oregon, and one of her responsibilities while employed was writing administrative rules. If there was a problem that occurred often, an administrative rule was drafted. Ms. Stone asked how often the City receives complaints regarding tobacco use in the parks. If there have been several complaints, she felt this ban may be warranted and suggested instead of rather than completely banning tobacco in the parks, the City establish no smoking areas. Ms. Stone feels everyone who pays taxes to support the City's parks should be accommodated. Ms. Stone suggested Marion County Health Department may have a hidden agenda to ban tobacco altogether. She continued that she has grown weary of all levels of government, who seem to be chipping away at individual rights. In closing, Ms. Stone asked the Council to consider if tobacco use in the City's parks is a real problem or not.
  
- b. **2011 Stayton Sprint Triathlon:** Alissa Angelo, Jennifer Lunsford, and Rebekah Meeks gave a presentation recapping the May 21, 2011 Sprint Triathlon. Overall, the race was successful with 200 registered participants. Proceeds from the event are being used to purchase a tot dock and water polo nets for the Pool. Plans for next years race are underway, and changes will include an updated run course and chip timing.

**ANNOUNCEMENTS**

- a. **Additions to the Agenda:** Mr. Eubank stated he provided a copy of Title 12.04 to the City Council. Councilor Quigley had inquired about maintenance of streets following the

last Council meeting. No action is required, this is only for information.

- b. **Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.:** None.

## **CONSENT AGENDA**

- a. **City Council Meeting Minutes of June 6, 2011**
- b. **Abstract of Election Results from May 17, 2011 Primary Election**
- c. **Acceptance of SPLF Grant for Outreach Storyteller Program**

**MOTION:** From Councilor Emery, seconded by Councilor Niegel, to adopt the Consent Agenda. **Motion passed 5:0.**

## **PUBLIC HEARING**

### **Ordinance No. 937 Amending SMC 17.20.140.3.f. Flagpole Height Standards**

- a. **Commencement of Public Hearing:** Mayor Vigil opened the public hearing at 7:18 p.m. and read the opening statement.
- b. **Ex parte contact, conflict of interest, bias, etc.:** Councilor Loftus stated he had contact with two members of the audience this evening, Wendy Stone and Leo Negrette.
- c. **Staff Report – Dan Fleishman:** Mr. Fleishman reviewed the history of the request to change the flagpole height standards.
- d. **Proponents’ Testimony:** None.
- e. **Opponents’ Testimony:** None.
- f. **General Testimony:** None.
- g. **Questions from Public:** None.
- h. **Questions from Council:** Councilor Emery stated he has a question, but will keep it for New Business.
- i. **Staff Summary:** None.
- j. **Close of Hearing:** Mayor Vigil closed the public hearing at 7:22 p.m.

## **UNFINISHED BUSINESS**

### **Ordinance No. 936 Prohibiting the Use of Tobacco Products in City Parks**

- a. **Continuation of Council Deliberation:** Mayor Vigil stated this Ordinance is before Council for second consideration.

b. **Council Decision:**

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley to kill Ordinance No. 936.

Discussion

Councilor Loftus expressed his opposition to the Ordinance. He asked the Council to have the common sense to realize this issue is not serious, and that it be stopped.

Councilor Quigley is opposed to Ordinance No. 936, and feels it is taking away peoples freedoms.

Councilor Niegel questioned if alcohol is allowed in the City parks. Chief Sebens stated alcohol is only allowed in certain circumstances, and requires a permit. Councilor Niegel stated she doesn't see the big difference between limiting smoking in parks and the limited use of alcohol in parks.

Councilor Loftus stated the City has no business regulating this.

Councilor Porter stated this is something that impacts others. He felt if tobacco use had no impact on others, he wouldn't be in support of the Ordinance. However, it does.

Mayor Vigil stated he agrees with Councilor Quigley. He believes smokeless tobacco should be allowed at Riverfront Park, but not necessarily at other City parks.

Councilor Loftus brought up the effects of barbeque smoke. Mayor Vigil stated this had already been addressed the representative from Marion County Health Department at a previous meeting.

**Motion failed 2:3 (Porter, Niegel, and Emery)**

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley to amend Ordinance No. 936 to allow smokeless tobacco.

Discussion

Councilor Porter stated he would like to do whatever is possible to discourage youth from using tobacco.

Councilor Niegel commented that this years County Health Survey showed the use of smokeless tobacco in youths under the age of 18 is very high in this area compared to the rest of the state. She finds this concerning.

Councilor Loftus stated that by passing this Ordinance, the City is regulating peoples behaviors.

Councilor Quigley stated by passing this Ordinance, we are discriminating against a class of

people.

Councilor Loftus asked to withdraw and restate his motion. Councilor Quigley agreed.

**Motion withdrawn by Councilor Loftus.**

**MOTION:** From Councilor Loftus, second by Councilor Quigley, to ban smoking of tobacco products in City parks, but exempt sidewalks and alleyways.

Discussion

Mayor Vigil asked for clarification on Councilor Loftus' motion, and asked if there was specific language he would like changed in the Ordinance. Councilor Loftus stated he would like to see the following changes to the Ordinance:

- 8.12.620.8 – Eliminate references to smokeless and chewing tobacco.
- 8.12.620.9 revised to only include smoking.
- 8.12.650.4 revised to only prohibit smoking in the parks, and add that sidewalks and alleyways are exempt.

Mayor Vigil asked how Chief Sebens interprets the current wording, and whether it would include sidewalks and alleyways. Chief Sebens stated as currently written he would not consider sidewalks and alleyways to be included as part of the rule, only City-owned parks property.

Mr. Fleishman suggested including a definition for a Park. The definition would state:

**PARK:** Real property owned, managed, or leased by the City of Stayton, other than dedicated rights-of-way.

Councilor Loftus stated he would agree to this.

Mayor Vigil stated he would like to see the Ordinance sent back to staff for revisions. The revised Ordinance should exclude smokeless tobacco and include a definition for "Park."

**Motion withdrawn by Councilor Loftus.**

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley to direct staff to modify the Ordinance per the Council's discussion and return at a later date for consideration.

Discussion

Councilor Emery stated the Ordinance already declares the rule is only applicable in City parks. He is in favor of prohibiting all tobacco products in City parks. Councilor Niegel agreed.

Councilor Quigley asked if the Shaff Road bike path is considered a park. Mr. Fleishman

stated this is in the Shaff Road right-of-way and is not considered a park.

**Motion passed 3:2 (Niegel, Emery)**

## **NEW BUSINESS**

### **Ordinance No. 937 SMC 17.20.140.3.f. Flagpole Height Standards**

- a. **Staff Report:** Mr. Fleishman reviewed the staff report included in the Council packet.
- b. **Council Deliberation:** Councilor Emery stated he doesn't agree with the height restrictions between one-story and two-story homes.

Councilor Porter is still bothered that people can hang flags for advertising purposes.

Councilor Loftus feels if someone wants to fly a flag on a 40 foot flagpole, it should be allowed.

- c. **Council Decision:**

**MOTION:** From Councilor Loftus, seconded by Councilor Quigley to amend Ordinance No. 937 to allow everyone the opportunity to have their flagpole at the same height.

#### Discussion

Councilor Loftus spoke in support of the motion.

Councilor Emery stated felt the motion doesn't cover the height issue he spoke about earlier. He would like to see the motion amended to state a maximum of 35 feet high or 110% of building height.

**Motion withdrawn by Councilor Loftus.**

**MOTION:** From Councilor Loftus, seconded by Councilor Emery to amend Ordinance No. 937 to allow commercial a maximum height of 110% of building height in commercial zones and 35 feet in residential zones.

**Motion Passed 4:1 (Porter)**

Ordinance No. 937 will be brought back for second consideration as amended.

### **Resolution No. 876, Adopting Fees and Charges for Various City Services**

- a. **Staff Report:** Ms. Shaffer reviewed the staff report included in the Council packet and proposed changes to the fee schedule. She stated under the Police fee schedule, the "Initial Application Fee" for a liquor license needs to be removed, as this is not allowed by OLCC.

- b. **Council Deliberation:** Councilor Loftus inquired as to why there was a 500% rise in the cost of digital photos. Ms. Shaffer stated two years ago, this cost was increased in the Administration fee schedule but was overlooked on the Police Department fee schedule. Staff wants to ensure consistency between Administration and the Police Department fees. Generally, requests for digital photos are fulfilled by providing the requestor with a CD or email copies. Councilor Loftus stated the price increase seems excessive and he would like to see it incrementally increase over a couple of years. If there is such a low demand, he doesn't see why the price needs to be raised so high.

Councilor Quigley asked if it was correct to say that a majority of fees paid by a new business coming into town about the Planning fees and if a new business moving into Stayton deals primarily with the Planning department. Mr. Fleishman stated if it is a new business moving in on a vacant lot, yet. If it is a new business moving into an existing building, they would be required only to fill out a Change of Use application.

- c. **Council Decision:**

**MOTION:** From Councilor Emery, seconded by Councilor Niegel, to approve Resolution No. 876, as amended, Adopting Fees and Charges for Various City Services. **Motion passed 5:0.**

## STAFF/COMMISSION REPORTS

### Finance Director – Christine Shaffer

- a. **Monthly Finance Department Report:** Ms. Shaffer reviewed the monthly operating report for Finance.

### Police Chief's Report – Rich Sebens

- a. **Statistical Report May 2011:** Chief Sebens reviewed the May 2011 Statistical Report. He spoke about an upcoming informational session regarding fraud prevention for businesses and their customers. This event will be held on June 28, 2011 at 12:00 p.m. at the Stayton Public Library. Councilor Porter suggested they also offer an evening session.

Councilor Niegel asked if there was one location more than others where auto accidents are occurring. She referenced the Highway 22 Interchange off-ramp as one area she has heard about many rear-ender accidents occurring. Chief Sebens stated he was unsure about specific locations of the accidents reported. However, generally the Highway 22 Interchange off-ramp is normally handled by the State or County Police and wouldn't be included in these statistics.

Councilor Loftus inquired as to how crosswalk enforcement locations are chosen. Chief Sebens explained the process of how the locations for enforcement are chosen.

Councilor Emery shared he has observed many youths not following the bike helmet law, and asked if there is a way to better promote helmet use to our among youths. Chief Sebens spoke about how the Police Department educates and encourages youths to wear bike helmets.

### **Public Works Director's Report – Dave Kinney**

- a. **May 2011 Monthly Operating Report:** Mr. Kinney was excused from the meeting, and there were no comments or questions.

### **Pool Manager's Report – Rebekah Meeks**

- a. **May 2011 Monthly Operating Report:** Ms. Meeks reviewed the May 2011 Pool Operating Report. Councilor Loftus asked if any more of the Pool surfacing was coming up. Ms. Meeks stated occasionally, dust comes up but there haven't been any further issues with the actual surfacing at this time.

### **Library Director's Report – Louise Meyers**

- a. **May 2011 Activities/Statistics:** Ms. Meyers was excused from the meeting, and there were no comments or questions.

## **PRESENTATIONS/COMMENTS FROM THE PUBLIC**

**Leo Negrette, 918 W. Darby Street:** Mr. Negrette read a prepared statement to the City Council, a copy of which was provided to staff following the meeting. Following his statement, he stated he has complained to everyone and gotten nowhere. Mr. Negrette has also contacted the Mayor, who never got back to him. He stated he is very fearful of retaliation.

Councilor Loftus stated he met with both Mr. Negrette and Chief Sebens regarding this issue. He thought it had been resolved. However, Mr. Negrette approached him today indicating it had not. Councilor Loftus encouraged him to address his letter to the City Council.

Mayor Vigil stated he has spoken to several officers, as well as Chief Sebens about this issue and was told there was a disruption or argument in the Norpac parking lot. He is also aware that there is a four-way stop in Norpac's parking lot that is regularly ignored by drivers. Mayor Vigil stated he can relate to the issue of people rolling through stop signs as it happens in his own neighborhood. He's also spoken with the Public Works Director and City Administrator about this issue. Mr. Negrette stated people don't just roll through the stop sign; they drive by it at 20 to 30 mph.

Councilor Loftus stated there is additional background here, but he is not going to air it at the meeting tonight. He suggested Norpac inform employees that they need to obey the stop sign as part of their new employee orientation. However, this doesn't address issues of how Mr. Negrette feels he's been treated by Police. He encouraged Mr. Negrette to contact the Police Review Committee with his issue.

Mayor Vigil stated that while he never returned a call to Mr. Negrette, the answer he received was that a formal complaint should be filed with Stayton Police Department.

Mr. Negrette stated he has never received an answer and would like to know why Mayor Vigil has never been charged with trespassing if he has admitted to breaking the law by walking across private property.

Chief Sebens explained the formal complaint process. He and Public Works Director Dave Kinney recently met with Norpac. Norpac management indicated they were going to speak with employees

and have security pay special attention to the stop sign issue.

Mr. Eubank explained to the Council how trespassing is dealt with. He stated a property owner needs to complain that there is a trespassing issue. At that time, the trespasser is issued a warning and if the problem continues, a citation is issued.

**BUSINESS FROM THE CITY ADMINISTRATOR – None.**

**BUSINESS FROM THE MAYOR – None.**

**BUSINESS FROM THE COUNCIL**

Councilor Loftus referenced a Special City Council meeting that was held regarding the acquisition of the Wampler Property for the Pedestrian Bridge. He stated he wasn't satisfied with the answers he received. He continued that nobody has taken responsibility for placing the bridge on private property. He feels this is a management issue and would like to invoke the review process for the City Manager.

**MOTION:** From Councilor Loftus to schedule an executive session to review City Manager's performance over this issue.

Motion died due to a lack of a second.

Councilor Emery stated he feels this is water under the bridge.

Councilor Loftus felt the Council was deceived by staff and the Wampler's. He has serious issues with the bridge being placed on private property with only a verbal agreement and with how the whole project was managed.

Councilor Emery stated at the Special City Council meeting, Councilor Loftus made a comment that the Wampler's were blackmailing the City. In Councilor Emery's opinion, he feels if the Wampler's were actually trying to blackmail the City they would have asked \$250,000 for the property. However, they sold the City this prime piece of property for \$30,000.

Councilor Loftus stated he has issue with placing the bridge on the property without prior written permission.

**ADJOURN**


There being no further business, the meeting was adjourned at 8:40 p.m.



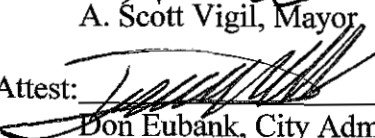
APPROVED BY THE STAYTON CITY COUNCIL THIS 5TH DAY OF JULY 2011, BY A 5:0 VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

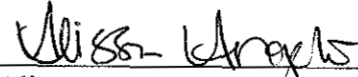
Date: 8/15/11

By:   
A. Scott Vigil, Mayor

Date: 8/15/11

Attest:   
Don Eubank, City Administrator

Date: 8/5/11

Transcribed by:   
Alissa Angelo, PW Administrative Assistant